

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DEVON D. ARCHER, BEVAN T. COONEY, HUGH  
DUNKERLEY, JASON W. GALANIS, JOHN P.  
GALANIS, GARY T. HIRST AND MICHELLE A.  
MORTON,

Defendants.

**16 Civ. 3505 (WHP) (AJP)**

**ANSWER OF**  
**GARY HIRST**

Defendant Gary Hirst (“Mr. Hirst”), by his attorneys, Wiand Guerra King P.A., files this pleading as his answer to the Complaint in this action dated May 11, 2016, together with all purported claims and purported causes of action therein (collectively the “Complaint”). Mr. Hirst reserves the right to amend this answer to the fullest extent consistent with the law.

1. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment of the United States Constitution, and all applicable sections, amendments and articles of any and all State Constitutions, including but not limited to the Constitution of the State of Florida (collectively referred to hereinafter as the “Fifth Amendment”), to the allegations contained in paragraph 1 of the Complaint.

2. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 2 of the Complaint.

3. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 3 of the Complaint.

4. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 4 of the Complaint.

5. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 5 of the Complaint.

6. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 6 of the Complaint.

7. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 7 of the Complaint.

8. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 8 of the Complaint.

9. Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 9 of the Complaint.

10. Paragraph 10 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 10 of the Complaint.

11. Paragraph 11 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 11 of the Complaint.

12. Paragraph 12 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 12 of the Complaint.

13. Paragraph 13 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 13 of the Complaint.

14. Paragraph 14 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 14 of the Complaint.

15. Paragraph 15 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self-incrimination under the Fifth Amendment to the allegations contained in paragraph 15 of the Complaint.

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120. Paragraph 120 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 120 of the Complaint.

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131. Paragraph 131 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 131 of the Complaint.

132. Paragraph 132 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 132 of the Complaint.

133. Paragraph 133 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 133 of the Complaint.

134. Paragraph 134 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 134 of the Complaint.

135. Paragraph 135 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 135 of the Complaint.

136. Paragraph 136 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 136 of the Complaint.

137. Paragraph 137 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 137 of the Complaint.

138. Paragraph 138 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 138 of the Complaint.

139. Paragraph 139 purports to state a legal conclusion/opinion as to which no response is required. To the extent that any response is required, Mr. Hirst invokes his right against self- incrimination under the Fifth Amendment to the allegations contained in paragraph 139 of the Complaint.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

140. The Complaint fails to set forth facts sufficient to state causes of action against Mr. Hirst.

#### **SECOND AFFIRMATIVE DEFENSE**

141. The Complaint's allegations of fraud are not pleaded with the particularity that the Federal Rules of Civil Procedure require. The lack of particularity makes it impossible for Mr. Hirst to determine at this time whether additional affirmative defenses may exist. Mr. Hirst reserves the right to assert additional affirmative defenses once the particular nature of the relevant alleged circumstances and alleged events are determined.

**THIRD AFFIRMATIVE DEFENSE**

142. The claims alleged in the Complaint are barred, in whole or in part, by the applicable statutes of limitations.

WHEREFORE, Mr. Hirst prays for relief as follows: (i) For judgment dismissing the Complaint with prejudice; (ii) for costs of suit and reasonable attorneys' fees as allowed by law; and (iii) for such other and further relief as the Court deems just and proper.

Date: August 15, 2016  
Tampa, Florida

Respectfully submitted,

**s/Matthew J. Mueller**

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*Attorneys for Defendant Gary Hirst*